

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EUGENE DAVIS,

Plaintiff,

-against-

ODN I GMBH, et al.,

Defendants.

USDC SDNY
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24-CV-01463 (MMG)

**ORDER**

MARGARET M. GARNETT, United States District Judge:

The limited subject matter jurisdiction of a district court is best addressed at the outset of a case. It falls upon the Court to raise issues of subject matter jurisdiction *sua sponte*.

“It is firmly established that diversity of citizenship should be distinctly and positively averred in the pleadings, or should appear with equal distinctness in other parts of the record.” *Leveraged Leasing Admin. Corp. v. PacifiCorp Cap., Inc.*, 87 F.3d 44, 47 (2d Cir. 1996). Where a complaint premised on diversity of citizenship names a limited liability company as a party, the complaint must allege the citizenship of natural persons who are members of the limited liability company as well as the place of incorporation and principal place of business of any corporate entities that are members of the limited liability company. See *Platinum-Montaur Life Sciences, LLC v. Navidea Biopharmaceuticals, Inc.*, 943 F.3d 613, 615 (2d Cir. 2019); *Handelsman v. Bedford Village Assocs. Ltd. Partnership*, 213 F.3d 48, 51-52 (2d Cir. 2000). “[A] statement of the parties’ residence is insufficient to establish their citizenship.” *Leveraged Leasing*, 87 F.3d at 47.

The Complaint alleges that Defendant Contrarian Capital Management, LLC (“Defendant Contrarian”) is “an entity organized and existing under the laws of Delaware.” Dkt. No. 1 at ¶ 18. The Complaint does not identify the members of Defendant Contrarian or allege the citizenship of any member of Defendant Contrarian.

Within fourteen (14) days of this Order, Plaintiff may, if necessary, serve a single interrogatory upon Defendant Contrarian as to its members, the citizenship of all natural persons who are its members, and, if any corporation is a member, the jurisdiction under whose laws it is incorporated and the principal place of business; Defendant Contrarian shall serve its response to the interrogatory within fourteen (14) days. Within 45 days of this Order, Plaintiff may file an Amended Complaint that identifies the members of Defendant Contrarian, expressly alleges the citizenship of all natural persons who are Defendant Contrarian’s members, and, if any corporation is a member, the jurisdiction under whose laws it is incorporated and the principal place of business. Alternatively, Plaintiff may voluntarily dismiss Defendant Contrarian within 45 days of this Order. If, by this date, Plaintiff either fails to amend to truthfully allege complete diversity of citizenship or does not voluntarily dismiss Defendant Contrarian, then Defendant

Contrarian will be dismissed from this action for lack of subject matter jurisdiction without further notice to any party.

Dated: March 1, 2024  
New York, New York

SO ORDERED.



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MARGARET M. GARNETT  
United States District Judge